

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALLAN A. KUEHNEMUND,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent,

Civil Case No: 07-15174
Criminal Case No: 04-20025
Honorable David M. Lawson

**ORDER GRANTING APPLICATION TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

Before the Court is the petitioner's application to proceed *in forma pauperis* on appeal. The docket shows that the petitioner was determined to be financially unable to obtain counsel in his appeal from his conviction, such that counsel was appointed for him. Thus, the petitioner is authorized to appeal *in forma pauperis* under Federal Rule of Appellate Procedure 24(a)(3) without further authorization unless the Court certifies that the appeal is not taken in good faith. "Good faith" requires a showing that the issues are arguable on the merits and are, therefore, not frivolous; it does not require a showing of probable success. *Harkins v. Roberts*, 935 F. Supp. 871, 873 (S.D. Miss. 1996) (quoting *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983)). "If the district court can discern the existence of any nonfrivolous issue on appeal, the movant's petition to appeal *in forma pauperis* must be granted." *Harkins*, 935 F. Supp. at 873. The issues in this case are not frivolous. Therefore the appeal is taken in good faith.

Accordingly, it is **ORDERED** that the application to proceed *in forma pauperis* on appeal

is **GRANTED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: December 1, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 1, 2008.

s/Felicia M. Moses
FELICIA M. MOSES